

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks. By virtue of the amendments above, claims 1, 6, 7, 11, 14-17, 19, 23, 24, 26, 28, and 36 have been amended. Claims 8 and 25 have been canceled and claim 29 was previously canceled without prejudice or disclaimer of the subject matter therein. Accordingly, claims 1-7, 9-24, 26-28 and 30-36 are pending in the present application of which claims 1, 11, 17, 19, 26, 28 and 36 are independent.

Claims 1-7, 9-24, 26-28 and 30-36 were rejected under 35 U.S.C. §102(b) as being anticipated by Riddick et al. (2003/0046568, "Riddick").

Claim Rejections Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1-7, 9-24, 26-28 and 30-36 were rejected under 35 U.S.C. §102(b) as being anticipated by Riddick. This rejection is traversed for at least the following reasons.

Claim 1 has been amended to recite features of now-canceled claim 8 and recites a secure token for use with an insecure decryption device, wherein, in a file transaction with a peer, the secure token is configured to create a third key unique to the peer and send the third key to the insecure device and the peer.

Riddick fails to teach the above-discussed features of claim 1. The Office Action at page 4 asserts in relation to now-canceled claim 8 that Riddick at paragraph 84 discloses that a secure token creates a third key unique to a peer. In the cited portion, Riddick discloses that, in reference to Fig. 5, a player 52 reads encrypted media key record from a consumer's smart token 18 and decrypts the media key record using the player's private key. However, such decryption of a media key record to obtain a media key in Riddick fails to teach that a key unique to a peer of the player 52 is created by the smart token 18 and is sent to both the player 52 and the peer.

The remainder of Riddick fails to overcome the foregoing deficiency. For example, at paragraphs 82 and 83, in reference to Fig. 5, Riddick discloses that a copy of a media item owned by a customer may be made and the consumer may transfer "the right to view the media item 14a from his smart token to his friend's smart token 18 . . . by inserting both tokens 18 into the player 52 and pressing the SHARE button or activating the SHARE function." However, such a transfer of a right to view a media item from a first smart token 18 to a friend's smart token in Riddick fails to teach that the first smart token 18 creates a key unique to the friend's smart token or the friend's player and sends the key to the media player 52 for the first smart token and to the media player or smart token of the friend.

Instead, Riddick discloses that in transferring the media viewing right to a friend's token and in reference to Fig. 5, the player 52 reads from a player cache of the friend's smart token and uses public keys from the cache to generate a set of encrypted records for a media item and store them in media cache of the friend's smart token. Riddick at paragraph 86. Thus, while the player 52 generates encrypted records and stores them in the friend's smart token, the first token 18 having the media viewing right in the first place before being passed onto the friend's smart token is not disclosed to be generating a key unique to the friend's smart token or the friend's smart player and send such a key to the player 52 and to the smart token or the smart player of the friend. Thus, Riddick fails to teach a secure token for use with an insecure decryption device, wherein, in a file transaction with a peer, the secure token is configured to create a third key unique to the peer and send the third key to the insecure device and the peer, as discussed for claim 1.

For at least the foregoing reasons, Riddick fails to teach all of the features of independent claim 1 and its dependent claims and thus cannot anticipate these claims. The Examiner is therefore respectfully requested to withdraw the rejection of claim 1 and claims that depend therefrom and to allow these claims.

Independent claims 11, 17, 19, 26, 28 and 36 each recite features similar to those discussed above for claim 1. Thus, for at least the same reasons set forth earlier with respect to claim 1, Riddick fails to teach all of the features of independent claims 11, 17, 19, 26, 28 and 36 and their respective dependent claims and thus cannot anticipate these claims. The Examiner is therefore respectfully requested to withdraw the rejection of independent claims 11, 17, 19, 26, 28 and 36 and claims that depend therefrom and to allow these claims.

Conclusion


In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: May 18, 2009

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